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ABSTRACT

The information contained in the body of this document was obtained from the "Federal Register." The document presents educators in the state of Idaho with information on the maintenance of student records and the control of access to those records. The appendix contains examples of forms and procedures used by the state department of education and by the school districts in Boise and Pocatello. (IRT)

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GUIDELINES FOR THE MANAGEMENT OF STUDENT RECORDS

THE FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT

OF 1974 P. L. 93-380, AND SECTION 513

OF THE HANDICAPPED ACT,

P. L. 94-142

REVISED EDITION

U.S. DEPARTMENT OF HEALTH, EDUCATION & WELFARE
NATIONAL INSTITUTE OF EDUCATION

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EA 011 706

AUGUST 1978

ROY TRUBY
STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

BOISE, IDAHO

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The information contained in this Revised Edition of Guidelines for the Management of Student Records was obtained from the Federal Register, Thursday, June 17, 1976, "Privacy Rights of Parents and Students: Final Rule on Education Records" and in the Federal Register, Tuesday, August 23, 1977, "Implementation of Part B of the Education of the Handicapped Act." Various forms and procedures were adapted/adopted from the Independent District of Boise City, #1, Pocatello District, #25, and the State Department of Education.

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INTRODUCTION

The Family Educational Rights and Privacy Act, enacted as part of the Education Amendments of 1974, P.L. 93-380, establishes the right of parents to have access to their children's school records, and limits the disclosure of personally identifiable information from school records without parental consent. If a student is 18 years of age or attending a postsecondary institution, he/she may exercise these rights on his/her own behalf. Parents or students who are either 18 years of age or attending a post secondary institution have the right to inspect or have a representative inspect and review appropriate educational institution or agency records.

Section 438 of the General Education Provision Act says: "No funds shall be made available under any applicable program to any educational agency or institution which has a policy of denying, or which effectively prevents, the parents or appropriate student, the right to inspect and review the educational records."

DEFINITION OF TERMS

1. Data means personally iuentifiable data which includes:

   A. The name of the child and/or the name of the child's parent(s)

   B. The address of the child

   C. A specific personal identifier, such as the child's social security number or student number, or

   D. A list of personal characteristics or other information which would make it possible to identify the child with resonable certainty.

2. Data maintained means personally identifiable data that is collected, stored, distributed and destroyed by a participating agency.

3. Destruction means physical destruction or removal of personal identifiers from information so that the information is no longer personally identifiable.

4. Directory Information includes: the student's name, address, telephone number, date and place of birth, major field of study, participation in activities and sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received, the most recent previous educational agency or institution attended, and other similar information.

5. Disclosure means permitting access or the release of educational records orally, in writing or by electronic means.

6. Educational institution or educational agency or institution means any public or private agency or institution which is the recipient of funds under any Federal program. The term refers to the agency or institution recipient as a whole, including all of its components (such as schools or departments in a university) and shall not be read to refer to one or more of these components separate from that agency or institution.

7. Eligible student or appropriate student means a student who has attained 18 years of age or is attending an institution of postsecondary education.

8. FERPA is the acronym for the Family Educational Rights and Privacy Act enumerated in "Privacy Rights of Parents and Students: Final Rule on Education Records" (Federal Register: June 17, 1976) and "Implementation of Part B of the Education of the Handicapped Act" (Federal Register: August 23, 1977).

9. Parent shall mean the natural parent, the adoptive parent, surrogate parent, or the court-appointed guardian of the student. The educational agency or institution may presume that either parent of the student has authority to inspect and review the records of the student

unless the agency has been provided with evidence that there is a legally binding instrument, a state law or court order governing such matters as divorce, separation or custody, which provides to the contrary.

10. Participating agency means any public school, agency, or institution which maintains or uses information, or from which information is obtainable.

11. Party shall mean an individual, agency, institution or organization.

RECORDS

Permanent record is interpreted to mean identifying data; academic work completed; level of achievement; attendance data; scores and protocols of standarized intelligence, aptitude and psychological tests; interest inventory results; health data; family background information; teacher or counselor ratings and observations and verified reports of serious or recurrent behavior patterns.

Educational institution or agency records or data including information about more than one student must be noted on each student's file and parents must be notified of such compound records on request and of the right to review only the records pertaining to their child.

Any extraneous material in a student's file should be removed; however, no information may be deleted from a file after a request has been made to review that file.

In general, the educational institution or agency should:

Select	Exclude
...only information which can assist the student with academic, personal, social and vocational decisions.	...information judged not relevant to a student's welfare.
...information of permanent or semi-permanent value.	...information which is not accurate.
	...information of temporary value.
	...information which will not be used.

Great care must be exercised by the educational institution or agency to insure the accuracy of records. Behavior patterns and specific incidents must be unambiguously described and clearly verified before they become a part of any continuing record. The educational institution or agency should give serious consideration to the elimination of unnecessary data at periodic intervals. An educational institution is free to destroy extraneous material in educational records except when there is a request by the parent or eligible student to inspect and review them. The record of individuals requesting access to student records shall be maintained for as long as the record to which it pertains is maintained.

Confidential, personal working files of professionals (school psychologists, social workers, counselors, teachers or substitute teachers, etc.) may be maintained. Personal and confidential files containing working notes, transcripts of interviews, clinical observations and memory aids for their own use in counseling pupils are permissible. Any and all data that is considered to be the personal property of the professional should be in the possession of and guarded by the professional, and used only by that individual. If the individual communicates personal information to a second person, however, it is no longer considered a private record. There cannot be a special set of student records "for school use only," or any similar attempt to subvert the intent of the law.

RECORD MAINTENANCE

An educational institution or agency should designate a professional person to be responsible for record maintenance and destruction, and to educate staff about maintenance and access policies. Records should be kept in locked files at all times. The person responsible for the records should keep a log of all record inspection requests. All persons desiring access to pupil records should sign the log, indicating specifically the legitimate educational interest they have in seeking information. This log would be available to parents, and the school official responsible for record maintenance will use this log as a means of auditing the operation of the system. Fees may be charged by the institution for copies of records to students or parents provided that such a fee does not prevent parents or students from exercising their rights. Fees may not be charged for examination of records.

Each participating agency shall protect the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction stages. One official at each participating agency shall assume responsibility for insuring the confidentiality of any personally identifiable information.

DESTRUCTION OF INFORMATION

The personally identifiable information on a handicapped child may be retained permanently unless the parents request that it be destroyed. Destruction of records is the best protection against improper and unauthorized disclosure. However, the records may be needed for other purposes. In informing parents about their rights under this section, the agency should remind them that the records may be needed by the child or the parents for social security benefits or other purposes. If the parents request that the information be destroyed, the agency may retain the information in paragraph 2.

1. The public agency shall inform parents when personally identifiable information collected, maintained, or used is no longer needed to provide educational services to the child.

2. The information must be destroyed at the request of the parents. However, a permanent record of a student's name, address, and phone number, his or her grades, attendance record, classes attended, grade level completed, and year completed may be maintained without time limitation.

RECORD ACCESS WITHOUT CONSENT

The educational institution or agency may, without consent of parents or students, release a student's permanent record file to the following:

1. Other educational institution or agency officials, including teachers, within the district who have a legitimate educational interest.

2. Officials of other educational institutions or agencies in which the student intends to transfer; however, the district should make a reasonable attempt to notify parents of the student or the eligible

student of the transfer of the records at the last known address of the parent or eligible student, except:

A. When transfer of the records is initiated by the parent of an eligible student at the sending agency.

B. When the agency or institution includes a notice in its policies and procedures that it forwards education records on request to an educational institution or agency in which a student seeks or intends to enroll. The agency or institution does not have to provide any further notice of transfer. The district, upon request, should also provide the parents or eligible student with a copy of the records which have been transferred, and/or with an opportunity for a hearing.

3. Authorized representatives of:

A. Comptroller General of the United States.

B. Secretary of U.S. Department of Health, Education and Welfare.

C. State education agency.

4. Such persons as necessary in connection with a student's application for, or receipt of, financial aid.

A. To state and local officials or authorities for whom information is specifically required to be reported or disclosed pursuant to State statute adopted prior to November 19, 1974.

B. To organizations conducting studies for, or on behalf of, educational agencies or institutions for the purpose of developing, validating or administering predictive tests, student aid programs and instructional improvement. Individual, personal identification of students is not permitted.

5. To accrediting organizations in order to carry out their accrediting functions.

6. To comply with judicial order or lawfully issued subpoena, provided that the educational agency makes a reasonable effort to notify the parent of the student or the eligible student of the order or subpoena in advance of compliance.

7. To proper individuals in a health or safety emergency.

EMERGENCY DISCLOSURES

An educational institution may disclose personal information about students without prior written consent to appropriate parties in connection with an emergency, if knowledge of the information is necessary to protect the health and/or safety of students or other individuals. Some factors to be considered in determining whether to release personal information are:

1. The seriousness of the threat to the health or safety of the student or other individual.

2. The need for the information to meet the emergency.

3. Whether the parties to whom the information is disclosed are in a position to meet the emergency.

4. The extent to which time is a crucial factor.

CONSENT FOR RELEASE OF RECORDS

Where the consent of a parent or eligible student is required for the release of educational records, it shall be in writing, signed and dated by the person giving such consent, and shall include reason, records to be released and the names of the parties to whom the records are released.

The educational institution or agency or its personnel may not divulge, in any form, to any persons other than those previously described, any information contained in school records, except:

1. With written consent from the student's parents, specifying records to be released and to whom. A copy of the records to be released must be sent to the student's parents and/or student, if desired by the parents or eligible student.

2. In compliance with judicial order or orders of administrative agencies where those agencies have the power of subpoena. An educational agency or institution must make a reasonable effort to notify the parent of a student or the eligible student of the order or subpoena in advance of compliance therewith.

3. If the education records of a student contain information on more than one student, the parents or eligible student may inspect and review or be informed of only the specific information which pertains to that student.

DEFINITION OF ELIGIBLE STUDENT

When a student reaches the age of 18 or is married his/her consent alone must be obtained. This includes the right to deny access to his/her records. A parent or eligible student may waive any of his/her access and disclosure rights, provided that the waiver is in writing and is signed by the parent or student, as appropriate.

An educational institution may request, but not require, an individual to waive his/her rights. If rights are waived on letters of recommendation, the student may request names of those submitting letters, and the institution may not require waiver of this right as a condition of admission. If the parent of a student executes a waiver for the student, the student may revoke the waiver at any time after he/she becomes an eligible student (this provision is usually exercised in post high school institutions).

The right of access includes the right to challenge the validity of information contained in the record, and the right to a due process hearing regarding contents of records.

Personal information shall only be transferred to a third party on the condition that such party will not permit any other party to have access to such information without the written consent of the parents or eligible student. Such third party shall execute a form to that effect, and a copy of such executed form shall be provided to the parent or student over the age of 18.

The educational institution or agency may provide anonymous data from its records for outside research purposes without consent under conditions where the likelihood of identifying any individual because of his/her unique characteristics is negligible.

NOTIFICATION

Annual notification must be made to parents that their child's individual records are available to them or their representative for review. The educational institution or agency shall outline the procedures to be followed if the parent wishes to review the records. Information included in the notice will be:

1. Content of record.

2. Procedures for inspection, review and challenge.

3. Cost of copies.

4. Right to a due process hearing regarding contents of records.*

Each educational institution shall establish appropriate procedures for the granting of a request by parents for access to the educational records. Records must be available within a reasonable period of time, but in no case shall access be withheld more than forty-five (45) days after the request has been made.

Agencies and institutions of elementary and secondary education shall provide for the need to effectively notify parents of students identified as having a primary or home language other than English.

*See the appendix for a sample notification.

CHALLENGES TO THE CONTENT OF RECORDS, RIGHT TO A HEARING, AND CONDUCT OF THE HEARING

The law provides that parents or eligible student who believe that records contain inaccurate, misleading or otherwise inappropriate information (including information in violation of the privacy or other rights of students) may request that the institution which maintains the records amend them. The educational institution shall decide, within a reasonable period of time, whether to amend the record, and must furnish parents or eligible student with notice of the decision. If the decision is negative, the institution must notify the parent or eligible student of the refusal and advise the parent or eligible student that they are entitled to a hearing.

If parents or the eligible student request a hearing, it must be held within a reasonable time (45 days) after the educational institution receives the request. Parents or the eligible student must be notified of the date, place and time of hearing, and the hearing must be conducted by an institutional official or other party who does not have a direct interest in the outcome of the hearing.

The parents or the eligible student shall have a full and fair opportunity to present evidence, and may be assisted or represented by individuals of their own choosing including an attorney.

The educational institution shall make its decision in writing within a reasonable period of time after the conclusion of the hearing, and the decision shall include a summary of the evidence received and the reason for the decision.

If, as a result of the hearing the educational institution decides that information in the records is misleading, inaccurate or otherwise inappropriate, it shall amend the record of the student accordingly and so notify the parents or eligible student in writing.

If the institution decides that the information is not misleading, inaccurate or otherwise inappropriate, it shall notify the parent or eligible student, and also inform them of their right to place with the records a statement commenting upon the information, stating their reasons for disagreeing with the decision of the agency or institution. Such a statement by the parent or the eligible student shall remain as part of the record as long as the contested portion is maintained by the institution.

It is important to note that parents or eligible students do not have the right to contest a grade as such. The proper recording of an assigned grade, however, may be contested.

If possible, the educational agency should conduct the hearing in a language or mode of communication that the student and/or parents understand.

If an educational institution cannot comply with the act because of a state or local law, the educational institution must inform the Federal Educational Rights and Privacy Act (FERPA) Office within forty-five (45) days, giving the text and legal citation of the conflicting law.

Every educational institution must submit reports and information as requested by the FERPA Review Board in order to carry out its function.

Complaints by parents or students of violation by an educational institution shall be submitted to the FERPA Office in writing. The office will notify the institution and the complaintant that a complaint has been received and the substance of the alleged violation. The educational institution shall be given an opportunity to submit a written response. The FERPA Office will investigate all complaints and may require further information from both parties. Following the investigation, the office will provide written notice of its findings to both parties. If there has been a failure to comply with the act, the office will inform the institution of steps which must be taken to bring the institution into compliance, as well as a time period within which the institution must comply.

If the educational institution does not comply within the specified period of time, the matter will be referred to the FERPA Review Board for a hearing.

The chairperson of the Review Board shall designate a Review Board Panel consisting of at least three members of the Review Board.

The case may be presented in part or wholly in writing or in informal conference with the panel. The parties shall have sufficient notice of the issues to be discussed and will have the right to counsel. Each party is also entitled to a record of the proceedings and may present and cross-examine witnesses.

The panel will prepare an initial decision including presented facts and conclusions. Copies of the initial decision shall be mailed to each party and to the Health, Education and Welfare Secretary with a notice that each party may submit written comments to the Secretary within a specified period of time.

The initial decision of the panel shall become the final decision unless the Secretary advises the Review Board within twenty-five (25) days that he/she wishes to reverse or modify the decision.

In a case where the Secretary modifies or reverses the initial decision a written statement of grounds for modification or reversal shall be submitted by the Secretary. No decision shall become final until the educational institution is notified.

CAUTIONS AGAINST EXCESSIVE RESTRICTIONS ON DATA USE

Students and parents should be protected from harmful or inappropriate use of student records. Data-use restrictions should not be exercised to prevent beneficial and appropriate use of student data.

Policies and procedure should, at the very least:

1. Permit the collection of data required for guidance and placement of the student.

2. Provide for obtaining the minimum data required for local administrative needs and state-mandated reports.

3. Encourage the educational institution or agency to forward to other educational institutions or agencies data necessary for the proper placement of students who transfer.

4. Provide for oral consultation between professional personnel about students and their records.

5. Permit appropriate assembling and reporting of statistical information for legitimate research, evaluation and audit purposes when the identification of individual students is protected.

PROTECTION OF STUDENT RIGHTS

All instructional materials, including teacher's manuals, films, tapes or other supplementary instructional materials which will be used in connection with any research or experimentation program or project shall be available for inspection by the parents or guardians of children engaged in such program or project.

DIRECTORY INFORMATION

Directory information is the kind of information usually found in a general student directory (see "Definition of Terms"). An institution wishing to disclose directory information must give public notice of:

1. The categories of personally identifiable information which the institution has designated as directory information.

2. The right of parents or eligible student to refuse to permit disclosure of such information.

3. The period of time witnin which parents or eligible student must inform the institution in writing that certain directory information is not to be released. If so informed, no directory information may be released pertaining to that individual.

Directory information for students who are no longer in attendance at the educational institution may be released without following the procedure outlined above. Schools may include the notice of intent to publish a directory with school registration information. If after a reasonable length of time there are no objections, directory information may then be available for use.

ENFORCEMENT OF PROVISIONS OF FERPA

Every application, proposal and plan submitted to the Commissioner of Education by an educational institution (for a grant, contract, loan or any other type of funding under programs made available under any Federal program for which the U. S. Commissioner has administrative responsibility) shall, as a condition to its approval, contain or be accompanied by an assurance that the educational institution is in compliance and will continue to comply with the act. No funds will be provided to any institution which is not in compliance with the act. The Secretary of the U.S. Department of Health, Education and Welfare has designated an office and a review board to review complaints concerning violations of the Family Educational Rights and Privacy Act (FERPA). The address of this office is:

The Family Education
Rights & Privacy Act Office
Dept. of HEW
330 Independence Ave. S.W.
Washington D.C. 20201

SAMPLE FORM

NOTIFICATION AUTHORIZATION FOR TRANSFER TO REQUESTING SCHOOL*

The transfer of _____ student records has
(name of student)
been requested by _____ educational institution or agency. Before such a release is made, you are entitled to a copy of such records and an opportunity to challenge the contents. If you desire a copy of the records, please notify us within 10 days of receipt of this notice. If you wish to challenge any document contained within the records, you must notify us within 10 days from the date of receipt of a copy of the records.

*Records may be transmitted to a school when a student transfers without parent/student consent.

SAMPLE FORM

BOISE SCHOOLS

REQUEST TO INSPECT SCHOOL RECORDS

We _____ as parents or legal guardians

of _____ request the opportunity to
(Name of Student)

inspect and review the school records of our child.

_____ _____

(Date) (Signature)

SAMPLE FORM

BOISE SCHOOLS

INSPECTION OF SCHOOL RECORDS

We the undersigned have inspected and reviewed the records of

_____ and
(Name of Student)

___ wish to challenge the inclusion of the following documents that are contained in the records for the reasons stated below:

Document:

Reason:

___ do not wish to challenge the records that we have inspected, initialed, and dated at this time.

_____ _____
(Signature of Witness) (Requestee's Signature)

_____
(Date)

SAMPLE FORM

BOISE SCHOOLS

RECORD OF ACCESS

Name of person or organization requiring access to student records:

Legitimate educational interest or reason:

As a condition of access to the personal information contained in the file of _____ I hereby agree not to permit any other party
(Name of Student)
to have access to the information obtained from this file without written permission of the student, or his/her parents if under 18 years, or married students.

_____ _____
(Witness) (Signature)

_____ _____
(Date) (Date)

SAMPLE FORM

POCATELLO SCHOOL DISTRICT

ACCESS LOG

_____
(Student's Name)

Following is a list of persons/agencies which have had access to the permanent record file of this student (including the legal parents/guardians or student if over 18, teachers, principals, counselors, secretaries and clerks). Access to records must be denied any out-of-school agency/person without a release form being included in the permanent record, duly signed by legal parents/guardians or student if over 18. Record of any challenge regarding information in the permanent record is to be recorded on this form.

NAME	POSITION	AGENCY	PURPOSE	DATE OF REQUEST	DATE OF ACCESS

SAMPLE FORM

(RUSSELL SAGE FOUNDATION)

REQUEST FOR PERMISSION TO RELEASE PERMANENT
SCHOOL RECORD TO THIRD PARTY

Dear Parent/Eligible Student:

We have received a request from

_____
(Name of requesting individual, agency, etc.)

for a copy of (access to) _____ school record.
(name of student)

Please indicate in the space below whether you are willing for us to comply with this request.

_____ may have a copy of (access to) the following
(Name of requesting party)

parts of _____ 's record:
(name of student)

___ Official Administrative Record (name, address, birthdate, grade level completed, grades, class standing, attendance record).

___ Standardized Achievement Test Scores

___ Intelligence and Aptitude Test Scores

___ Personality and Interest Test Scores

___ Teacher and Counselor Observations and Ratings

___ Record of Extracurricular Activities

___ Family Background Data

_____
(Parent's Signature)

_____
(Date)

SAMPLE NOTICE: DIRECTORY INFORMATION PUBLISHED WITHOUT CONSENT

BOISE SCHOOLS

NOTICE

In accordance with the Family Educational Rights and Privacy Act of 1974, the Independent School District of Boise City hereby gives notice to all parents, legal guardians, students eighteen years of age or older, and married students attending the District schools, that the following information is being categorized as directory information: the student's name, address, and telephone listing; date and place of birth; participation in officially recognized activities and sports; weight and height of members of athletic teams; dates of attendance; degrees and awards received; and the most recent previous educational agency or institution attended by the student.

Directory information will be published and released by the Independent School District of Boise without prior written consent of the parents, legal guardians, or students eighteen years of age or older, or married students, unless the parent, legal guardian, or student eighteen years of age or older or married, notifies the Independent School District of Boise City by September 16, 1977, that the above mentioned directory information should not be released without prior written consent of the parent, guardian, or student eighteen years of age or married. Such notification should be in writing and addressed to Mrs. Dorothy Secord, Clerk of the Board of Trustees, Independent School District of Boise City, 1207 Fort Street, Boise, Idaho 83702.

Pub. Sept. 4, 5, 1977 8:29

SAMPLE LEGAL AD: NOTIFICATION

BOISE SCHOOLS

LEGAL NOTICES

LEGAL AD — PUBLISH
SEPTEMBER 4 and 5, 1977

Notice is hereby given to the parents of children under the age of 18 years, persons 18 years of age or older, and married students attending the public schools of the Independent School District of Boise City, that pursuant to Section 513 of Public Law 93-380 (20 USC 1232g), you have been accorded certain rights of inspection and review of certain of your child's school records (or your records if 18 years of age) and an opportunity for a hearing to challenge the content of such child's school records. Appropriate administrative procedures have been established for granting requests of parents (or 18-year-old or married students) for access to such records. Records are kept in the following areas: academic, attendance, testing, and health.

You are further notified that pursuant to said law, the personally identifiable school records and files of your child will be released to only certain school and other officials, unless you consent to such further release in writing. Furnishing, in any form, any personally identifiable information contained in personal school records, to any persons, other than the above, will be permitted only on written consent from you, specifying the record to be released, the reason therefore, to whom copies are to be provided, or permitted* when required by judicial order or lawful subpoena, provided the parents and student are notified of such orders or subpoena in advance of compliance by the District.

Any person, agency, or organization legally entitled to student records and desiring access to such records must sign a written form to be kept in the student's file for inspection by the parent or student. Personal information shall only be transferred to a third party on condition such party will not permit any other party to have access to such information without the written consent of the parents.

The Secretary of the Department of Health, Education, and Welfare has adopted the appropriate regulations to protect the rights of privacy of students and their families and the regulations may be found in 45 CFR 536.71, a volume of which is at the Idaho Supreme Court Library. The Independent School District of Boise City has adopted a policy pertaining to the privacy rights mentioned above and it is available for inspection at the School Administration Building, 1207 Fort, Boise, Idaho.

Any parent of a student, or a student who has attained 18 years of age, has the right to file a complaint regarding any alleged failure by any school district to comply with the requirements of Section 513 of P.L. 93-380 with the Secretary of the Department of Health, Education, and Welfare.

When a student attains 18 years of age or is attending an institution of post-secondary education, the rights accorded to and permission required of his/her parents, shall thereafter only be accorded to and required of the student.

For further particulars, you are hereby referred to the above-described public law, the rules and regulations of the District and the forms prescribed thereunder, all on file at the office of the District at 1207 W. Fort St., Boise, Idaho.

Dated this 4th day of September, 1977.

Public Information Office
Pub. Sept. 4, 5, 1977 8428

SAMPLE NEWS RELEASE

Superintendent _____ gave official notification
(name)
to _____ district parents today that their children's
(area)
school records are available for review. The _____
(area)
school district, in compliance with guidelines from the State Department of Education pertaining to the Family Educational Rights and Privacy Act, P. L. 93-380, Section 513, has established procedures to implement the right of parents to have access to their children's school records. The law also protects student records from scrutiny by unauthorized persons or agencies.

The law limits the disclosure of personally-identifiable information from schoc' records without parental consent, _____
(name)
said. "The term 'record' is interpreted to mean identifying data, academic work completed, level of achievement, attendance data, test scores, teacher ratings, family background information and other pertinent data."

School districts not complying with the act will be denied Federal funds for existing programs.

_____ pointed out that only information which
(name)
can assist the student with academic, personal, social and vocational/career decisions, or information of permanent or semi-permanent value has been retained in student records. The school does, however, allow public scrutiny of a directory of general information about students unless the parents notify the school district within two weeks that no information may be disclosed without written consent.

Confidential, personal working files of professionals such as school psychologists, social workers, counselors and teachers may, however, be

maintained as long as they are used only by that individual, _____ (name) said. He added there cannot be a special set of student records "for school use only" kept by the school.

_____ (name) noted that annual notification must be made to parents that their child's individual records are available to them for review, with the school district outlining the procedures to be followed.

"The purpose of the law," _____ (name) said, "is to preserve the right of parents and eligible students to inspect their school records, while protecting those records from access by unauthorized persons or agencies." A number of sample forms relevant to the entire disclosure procedure have been received from the State Department of Education.

_____ (name) pointed out further information about disclosure of student records is available at the district office.

IN THE HOUSE OF REPRESENTATIVES
HOUSE BILL NO. 71
BY EDUCATION COMMITTEE

AN ACT

RELATING TO PRIVILEGED COMMUNICATIONS, AMENDING SECTION 9-203, IDAHO CODE, TO PROVIDE IMMUNITY FROM DISCLOSURE BY COUNSELORS, PSYCHOLOGISTS AND PSYCHOLOGICAL EXAMINERS OF PRIVILEGED OR CONFIDENTIAL COMMUNICATIONS MADE THERETO BY STUDENTS OF PUBLIC OR PRIVATE SCHOOLS IN ANY CIVIL OR CRIMINAL ACTION TO WHICH SUCH STUDENT SO COUNSELED IS A PARTY; AND DECLARING AN EMERGENCY.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 9-203, Idaho Code, be, and the same is hereby amended to read as follows:

9-203. CONFIDENTIAL RELATIONS AND COMMUNICATIONS. – There are particular relations in which it is the policy of the law to encourage confidence and to preserve it inviolate; therefore, a person can not be examined as a witness in the following cases:

1. A husband can not be examined for or against his wife, without her consent, nor a wife for or against her husband, without his consent; nor can either, during the marriage or afterwards, be, without the consent of the other, examined as to any communication made by one to the other during the marriage; but this exception does not apply to a civil action or proceeding by one against the other nor to a criminal action or proceeding for a crime committed by violence of one against the person of the other, nor does this exception apply to any case of physical injury to a child where the injury has been caused as a result of physical abuse or neglect by one or both of the parents.

2. An attorney can not, without the consent of his client, be examined as to any communication made by the client to him, or his advice given thereon in the course of professional employment. The word client used herein shall be deemed to include a person, a corporation or an association.

3. A clergyman or priest can not, without the consent of the person making the confession, be examined as to any confession made to him in his

professional character in the course of discipline enjoined by the church to which he belongs.

4. A physician or surgeon can not, without the consent of his patient, be examined in a civil action as to any information acquired in attending the patient which was necessary to enable him to prescribe or act for the patient, provided, however, that:

(A) Nothing herein contained shall be deemed to preclude physicians from reporting of and testifying at all cases of physical injury to children, where it appears the injury has been caused as a result of physical abuse or neglect by a parent, guardian or legal custodian of the child.

(B) After the death of a patient, in any action involving the validity of any will or other instrument executed, or claimed to have been executed, by him, conveying or transferring any real or personal property or incurring any financial obligation, such physician or surgeon may testify to the mental or physical condition of such patient and in so testifying may disclose information acquired by him concerning such patient which was necessary to enable him to prescribe or act for such deceased.

(C) That where any person or his heirs or representatives brings an action to recover damages for personal injuries or death, such action shall be deemed to constitute a consent by the person bringing such action that any physician who has prescribed for or treated said injured or deceased person and whose testimony is material in the action may testify.

(D) That if the patient be dead and during his lifetime had not given such consent, the bringing of an action by a beneficiary, assignee or payee or by the legal representative of the insured, to recover on any life, health or accident insurance policy, shall constitute a consent by such beneficiary, assignee, payee or legal representative to the testimony of any physician who attended the deceased.

5. A public officer can not be examined as to communications made to him in official confidence, when the public interests would suffer by disclosure.

6. Any certificated counselor, psychologist or psychological examiner, duly appointed, regularly employed and designated in such capacity by any public or private school in this state for the purpose of counseling students, shall be immune from disclosing, without the consent of the student, any communication made by any student so counseled or examined in any civil or criminal action to which such student is a party. Such matters so communicated shall be privileged and protected against disclosure.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.